REMARKS/ARGUMENTS

Applicants appreciate the Examiner's continued thorough search and examination of the present patent application.

Claims 34, 35, 41-47 and 48 are rejected under 35 U.S.C. §102(e) as being anticipated by Franklin et al. ("Franklin," U.S. Patent No. 6,105,069. Applicants respectfully traverse this rejection.

Respectfully, the features and structure of applicants' claim 34 system, and the way that applicants' claim 34 system operates, is fundamentally different from Franklin. As part of Novell's NetWare network, Franklin requires a licensing controller that includes objects of data obtained from various sources and stored for use by Novell's known Network Application Launcher. The objects are formatted and stored in a complex arrangement of data structures, applications and dynamic link libraries, and are selectively accessible via application programming interfaces for use with Novell's NetWare system. The various objects defined in Franklin improve the way the Network Application Launcher works, including for load balancing, managing computer software applications, and for implementing software licenses during execution of software programs.

Applicants' claim 34, in contrast, is directed to a system for "correlating metrics" that are associated with "a plurality of software products" with "related software agreement data." Applicants' claim 34 system includes a first facility that is operable "to interface" with a product API of "at least one of "the...products" to "obtain...related...agreement data." Further, a second facility is operable "to interface" with the same product API to "obtain...related...product data." A third facility correlates substantially automatically the product data and the agreement data with one another. Finally, a fourth facility outputs the results of the correlation. As defined in applicants' claim 34, the system is not operable to affect operation of any software identified by data correlated by the third facility. Franklin does not teach or suggest this combination of features.

As applicants have previously maintained, Franklin is directed to "centrally managing application programs in a computer network" (column 2, lines 16-21). Franklin teaches use of various objects, including group objects, user objects, resource objects and other application objects that store attributes, including license related information, that are used by the Network

Application Launcher 190 when various applications are called (see, for example, Figs. 3-11). An application's calling API (e.g., 252) may be operable to access license information from an application object 100, such as to "consume [an] attribute 110" (which may include licensing attributes 160) (see column 9, lines 31-42 . However, unlike applicants' claim 34, an "actual executable file" does not include an API that is operable to provide software agreement information to an application object 100 (see column 4, line 66-column 5, line 1). Instead, Franklin teaches use of object 92 that is "associated" with an "actual executable file." Applicants recognize that Franklin discloses storing licensing information in attributes objects that Franklin's Network Application Launcher associates with the "actual executable file," and, further that Franklin's system references those attributes via a respective API, for example, provided in the Network Application Launcher. Franklin does not teach or suggest, however, a first facility operable to interface with an API of a software product (i.e., an actual executable file) in order to obtain related agreement data and a second software facility operable to interface with that same API to obtain software product data. In other words and unlike Franklin, applicants' claim 34 defines facilities that interface with a software product (via that product's API) to obtain agreement data and software product data. Further, Franklin does not teach or suggest a single product API that provides both agreement data and software product data to two respective software facilities. Thus, Franklin teaches a patentably distinct system that does not anticipate applicants' claim 34.

Referring now to the Examiner's specific rejection under Section 3 of the Office Action, the Examiner concludes that Franklin "constitutes a knowledge based facility" and "organizes databases into objects, such as for users, resources and software licenses." The Examiner further states "[t]he resources are organized into a database that constitutes an inventory list." Finally, the Examiner states that Franklin "includes a query tool for using the various database that outputs query results." Applicants strenuously submit that these features cited by the Examiner do not teach or suggest applicants' clam 34 system that includes a software product API that provides both software agreement data and software product data to first and second software facilities, respectively. Thus, elements of applicants' claim 34 are missing from the teachings of Franklin.

Also at section 3 of the Office Action, the Examiner cites to Franklin for disclosing

"licensing objects [that] may be implemented as API's" and a "procedure that retrieves licensing information from the resources" and a "process by which necessary additional functionalities may be spawned by the applications." Applicants respectfully submit that Franklin's licensing objects may be implemented as API's, but, unlike applicants' claim 34, that such API's are not of the respective software product(s). Further, the additional functionalities "spawned" by the applications relate to Franklin's licensing controller, and not the "actual executable files." Applicants maintain that this is patentably distinct from applicants' claim 34 that defines one or more software products that have an API providing software agreement data and software product data to first and second software facilities, respectively.

Finally, the Examiner's contends that Franklin discloses embodiments "wherein the product is used for database maintenance by an administrator rather than for the direct execution of a software product (see column 16, lines 12-23 and figures 11 and 12)." Applicants' respectfully disagree because the administrative functionality in Franklin's system relies upon actual execution of the respective resources that are provided to a user via the Network Application Launcher. In other words, unless a user attempts to execute a software program (the actual executable file), the Network Application Launcher would have no way of providing all of the related functionality and information to the administrator. Thus, Franklin does not teach a system that is "not operable to affect operation of any software product identified by data correlated by [applicants'] third computerized software facility," as defined in applicants' claim 34. Operation of licensed software is absolutely essential for Franklin's license controller as a function of the Network Application Launcher, and Applicants disagree with the Examiner's conclusion that operation of a licensed software is not essential for this functionality.

Therefore, and based on the foregoing, applicants respectfully submit that nothing in Franklin teaches or suggest at least respective API's provided in software products that enable a software facility to obtain software product data and corresponding software agreement data. Claims 35, 41-43 and 46-48 depend directly or indirectly from claim 34 and are, therefore, patentable for the same reasons as well as because of the combination of features set forth in those claims with the features set forth in the claim(s) from which they depend.

Claim 36 is rejected under 35 U.S.C. §103(a) as being unpatentable over Franklin and the Examiner taking official notice that use of mainframes as servers is well know. Applicants

respectfully submit that, for the same reasons as set forth above, claim 36 is patenable as well because of the combination of features in claim 36 with the features set forth in claim 34.

Claims 46, 47, 50 and 51 are rejected under 35 U.S.C. §103(a) as being unpatentable over Franklin as applied to claim 34 above, and further in view of Mangat et al. ("Mangat," U.S. Patent No. 6,049,799).

Claims 46, 47, 50 and 51 depend directly or indirectly from claim 34. Applicants respectfully submit that Mangat does not supply the elements of applicants' claim 34 that are missing from the teachings of Franklin. In particular, Mangat does not teach or suggest a first software facility that is operable to interface with an API of one or more software products in order to obtain related software agreement data, and a second software facility operable to interface with that same API to obtain software product data. Therefore, for the same reasons as set forth above, applicants respectfully submit that the combination of Mangat and Franklin do not teach or suggest all of the elements of applicants' claim 34. Therefore, claims 46, 47 and 50 which depend directly or indirectly from claim 34, are patentable for the same reasons as well, because of the combination of features in those claims with the features set forth in the claim(s) from which they depend.

Claims 42 and 43 are rejected under 35 U.S.C. §103(a) as being unpatentable over Franklin as applied to claim 34 above, and further in view of Todd et al. ("Todd," U.S. Patent No. 5,867,714).

Claims 42 and 43 depend directly or indirectly from claim 34. Applicants respectfully submit that Todd does not supply the elements of applicants' claim 34 that are missing from the teachings of Franklin. In particular, Todd does not teach or suggest a first software facility that is operable to interface with an API of one or more software products in order to obtain related software agreement data, and a second software facility operable to interface with that same API to obtain software product data. Therefore, for the same reasons as set forth above, applicants respectfully submit that the combination of Todd and Franklin do not teach or suggest all of the elements of applicants' claim 34. Therefore, claims 42 and 43 which depend directly or indirectly from claim 34, are patentable for the same reasons, as well as because of the combination of features in those claims with the features set forth in the claim(s) from which they depend.

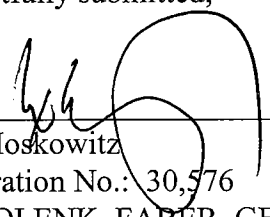
Claim 49 is rejected under 35 U.S.C. §103(a) as being unpatentable over Franklin as applied to claim 34 above, and further in view of Elmasri et al. ("Elmasri," "Fundamentals of Database Design," 1989, pp. 544-545).

Claim 49 depends directly or indirectly from claim 34. Applicants respectfully submit that Elmasri does not supply the elements of applicants' claim 34 that are missing from the teachings of Franklin. In particular, Elmasri does not teach or suggest a first software facility that is operable to interface with an API of one or more software products in order to obtain a related software agreement data, and a second software facility operable to interface with that same API to obtain software product data. Therefore, for the same reasons as set forth above, applicants respectfully submit that the combination of Elmasri and Franklin do not teach or suggest all of the elements of applicants' claim 34. Therefore, claim 49 which depends directly from claim 34, is patentable for the same reasons, as well as because of the combination of features in those claims with the features set forth in the claim(s) from which they depend.

Accordingly, the Examiner is respectfully requested to reconsider the application, allow the claims as amended and pass this case to issue.

THIS CORRESPONDENCE IS BEING SUBMITTED ELECTRONICALLY THROUGH THE PATENT AND TRADEMARK OFFICE EFS FILING SYSTEM ON January 17, 2007.

Respectfully submitted,



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